

**Davis Polk**

Lara Samet Buchwald  
+1 212 450 4351  
lara.buchwald@davispolk.com

Davis Polk & Wardwell LLP  
450 Lexington Avenue  
New York, NY 10017  
davispolk.com

February 6, 2025

The Honorable Denise L. Cote  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Granted.  
Denise Cote  
2/7/25

Re: *Taylor v. Bank of America Corp. & Merrill Lynch, Pierce, Fenner & Smith Incorporated*,  
No. 1:25-cv-00709-DLC

Dear Judge Cote:

We represent defendants Bank of America Corporation ("BAC") and Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill") in the above-referenced action (the "Action"). We write jointly with Plaintiff to request that the Court hold all deadlines in this Action in abeyance and to adjourn *sine die* the pretrial conference presently scheduled for March 27, 2025, pending a decision on consolidation from the United States Judicial Panel on Multidistrict Litigation (the "JPML").

By way of background, on October 30, 2024, Plaintiff's counsel filed a motion before the JPML for consolidation or coordination (the "Consolidation Motion") of what was initially more than twenty cases, before a single judge in the Southern District of New York. Since then, the number of actions has grown. The JPML solicited responses to Plaintiff's application, and multiple parties—including BAC and Merrill—opposed the Consolidation Motion. On January 23, 2025, Plaintiff filed this Action, and subsequently filed a notice of related action for this Action in the JPML proceeding. Briefing on the Consolidation Motion is closed, and the JPML heard argument on the Consolidation Motion on January 30, 2025. The Consolidation Motion is currently pending a decision from the JPML, which is expected by the month's end.

Additionally, the parties wish to apprise the Court that the instant action is only one of several "cash sweep" cases filed against BAC and Merrill in the Southern District of New York. There are currently six such actions, including two other actions against BAC and Merrill filed by Plaintiff's counsel:

Case Name	Assigned Judge	Plaintiff's Counsel
<i>Valelly v. Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated</i> , No. 19-cv-07998-VEC	Hon. Valerie E. Caproni	Wolf Popper LLP
<i>McCrary v. Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated</i> , No. 23-cv-10768-VM	Hon. Victor Marrero	Wolf Popper LLP

## DavisPolk

Case Name	Assigned Judge	Plaintiff's Counsel
<i>Safron Capital Corp. v. Bank of America Corp. &amp; Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated</i> , No. 24-cv-07743-MMG	Hon. Margaret N. Garnett	Robbins Geller Rudman & Dowd LLP
<i>Campton v. Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated, et al.</i> , No. 24-cv-08629-MMG	Hon. Margaret N. Garnett	Robbins Geller Rudman & Dowd LLP
<i>Bertonis v. Morgan Stanley, et al.</i> , No. 25-cv-00115-JAV	Hon. Jeannette A. Vargas	Johnson Fistel, LLP
<i>Taylor v. Bank of America Corp. &amp; Merrill Lynch, Pierce, Fenner &amp; Smith Incorporated</i> , No. 1:25-cv-00709-DLC	Hon. Denise L. Cote	Robbins Geller Rudman & Dowd LLP

On December 16, 2024, the parties in the *Safron* action, who are represented by the same set of counsel here, wrote jointly to Judge Garnett: (i) seeking an abeyance of all deadlines in *Safron* pending a decision on the Consolidation Motion, and (ii) proposing that, within 14 days of a decision from the JPML, they write to the Court with a recommended approach to coordination or consolidation of the *Safron* and *Campton* actions in light of the parties' agreement that it will be more efficient for the Court and the parties to coordinate the two actions, as well as a proposed schedule for BAC and Merrill to respond to the complaint. On December 17, 2024, Judge Garnett granted the parties' request and adjourned *sine die* the deadline for BAC and Merrill to respond to the complaint and the initial pretrial conference and related deadlines. Judge Garnett further ordered the parties to file a letter with the court within 14 days of the JPML's decision. See *Safron Capital Corp. v. Bank of America Corp. & Merrill Lynch, Pierce, Fenner & Smith Incorporated*, No. 24-cv-07743-MMG, ECF No. 34; see also *Campton v. Merrill Lynch, Pierce, Fenner & Smith Incorporated, et al.*, No. 24-cv-08629-MMG, ECF No. 11.

The complaint in this Action seemingly contains overlapping factual allegations and includes overlapping claims with those asserted in the *Safron* and *Campton* actions. The parties have conferred and agree that it will be more efficient for the Court and the parties if this Action were coordinated with the *Safron* and *Campton* actions pending before Judge Garnett. To that end, the parties respectfully request that the Court similarly hold in abeyance the deadlines in this Action. The parties also propose that, consistent with *Safron*, within 14 days of a decision from the JPML, they write to the Court with (i) the parties' recommended approach to coordination or consolidation of this Action with the *Safron* and/or *Campton* actions, and (ii) a proposed schedule for BAC and Merrill's response to the complaint.

## Davis Polk

The parties thank the Court for its consideration.

Respectfully submitted,

**ROBBINS GELLER RUDMAN & DOWD LLP**

/s/ Stephen R. Astley

Stephen R. Astley, *pro hac vice*  
225 NE Mizner Boulevard, Suite 720  
Boca Raton, FL 33432  
Tel: 561-750-3000

*Counsel for the Plaintiff and the  
Putative Class*

**DAVIS POLK & WARDWELL LLP**

/s/ Lara Samet Buchwald

Lara Samet Buchwald  
Cristina M. Rincon  
Chui-Lai Cheung

450 Lexington Avenue  
New York, New York 10017  
Tel: 212-450-4000

*Counsel for Defendants Bank of America  
Corporation and Merrill Lynch, Pierce,  
Fenner & Smith Incorporated*

**VIA ECF**

cc: All Counsel of Record (via ECF)